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FM AMEMBASSY CAIRO
TO RUEHC/SECSTATE WASHDC 0302
INFO ARAB ISRAELI COLLECTIVE
RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC

XTAGS: XTAGPGOV, XTAGPHUM, XTAGKDEM, XTAGELAB, XTAGEG
XDEST_09CAIRO748|09CAIRO786|09CAIRO839|10CAIRO163

C O N F I D E N T I A L SECTION 01 OF 03 CAIRO 000217

SIPDIS
FOR NEA/ELA AND DRL/NESCA

E.O. 12958: DECL: 2035/02/18
TAGS: PGOV, PHUM, KDEM, ELAB, EG
SUBJECT: HUMAN RIGHTS NGOS FACE REGISTRATION QUANDRY

REF: 10 CAIRO 163; 09 CAIRO 839; 09 CAIRO 786; 09 CAIRO 748

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REASON: 1.4(B), (D)

1. KEY POINTS

-- (U) The GOE maintains that NGOs are legally obligated to register with the Ministry of Social Solidarity (MOSS). Egyptian law gives the GOE broad oversight over MOSS-registered NGOs, and the GOE can dissolve these NGOs for receiving foreign funding without permission, and for other violations.

-- (SBU) Faced with these restrictions, many NGOs - mostly those focused on sensitive human rights issues - choose not to register with MOSS, and instead operate as non-profit organizations or under the cover of law firms. Some MOSS-registered human rights NGOs have complained about the requirements imposed on them.

-- (U) According to our information, the GOE has not moved to close any NGOs since two cases in 2007 and 2008.

-- (C) According to one human rights lawyer, the GOE stopped rejecting NGOs' registration applications in 2008, believing it is easier to register NGOs and thereby control their activities. We are aware of only one pending lawsuit challenging the GOE's refusal to register an NGO, and the NGO in question is not pressing the case as it does not want to be registered.

Law 84: The Framework for NGO Registration

2. (U) Law 84 (2002) sets out requirements for NGOs engaged in non-profit work, and empowers the Ministry of Social Solidarity (MOSS) to oversee the implementation of these regulations. Law 84 requires NGOs (defined as organizations working on "permissible activities" such as constitutional and legal rights, social defense, human rights and advocacy) to apply for MOSS registration, and allows MOSS to reject applications on the basis of an NGO conducting "prohibited activities," including "threatening national unity" and "violating public order or morals." The law requires registered NGOs to receive MOSS approval to receive domestic and foreign funds, or to send funds abroad. Law 84 allows MOSS to dissolve an NGO for receiving foreign funding or sending funds abroad without permission, as well as for various other violations. Under Law 84, MOSS can enter an NGO's premises to review its records, and can remove and add personnel on an NGO's board of directors.

3. (SBU) According to XXXXXXXXXXXX, an academic specializing in civil society issues, there are currently about 27,800 MOSS-registered NGOs in Egypt. XXXXXXXXXXXX understood that 99 percent of all Egyptian NGOs - registered with MOSS and unregistered - work on issues unrelated to human rights, such as philanthropy, social services and development. XXXXXXXXXXXX believed the vast majority of NGOs working on issues unrelated to human rights are registered with MOSS. While many human rights NGOs choose not to register with MOSS because of Law 84 obligations, some NGOs working on sensitive issues such as prison conditions, interfaith dialogue and political participation are registered with MOSS.

4. (U) In 2007, the GOE shut down the offices of the Center for Trade Union and Workers Services (CTUWS) in three cities for operating as an NGO without MOSS registration. MOSS had rejected CTUWS' registration application. In March 2008, a court ruled that MOSS should register CTUWS, and the offices re-opened following a June 2008 MOSS decree. In September 2007, the GOE dissolved the

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MOSS-registered Arab Human Rights Legal Assistance (AHRLA) NGO for receiving foreign funds without authorization. In October 2008, a court overturned the GOE's decision, and AHRLA was able to resume its operations.

Options Outside Law 84

5. (C) Due to the requirements imposed by Law 84, many NGOs especially those working on human rights or other sensitive political issues - choose to register with various GOE entities other than MOSS. Some NGOs apply for and receive tax-exempt status as "civil companies" from the government tax authority, and then use this status to open a bank account. Contacts tell us that Interior Ministry State Security (SSIS) has sometimes interceded to prevent the tax authority from issuing certain organizations tax-exempt status. In addition, contacts say SSIS has pressured banks not to allow a particular NGO to use its tax exempt status to open an account.

6. (SBU) Other NGOs operate under the auspices of for-profit law firms registered as "civil companies" under law 17 (1983) and with the Bar Syndicate. Contacts tell us that NGOs operating within for-profit law firms do not face official GOE requirements, but need to negotiate their activities with Interior Ministry State Security. Other NGOs are registered as "civil companies" with the Ministry of Trade and Investment; one contact told us this registration only requires an organization to be non-profit.

Challenging MOSS Registration Rejections

7. (C) Since the passage of law 84 in 2002, a handful of NGOs have successfully filed suit to challenge MOSS' rejection of their registration applications, and have eventually gained registration. The vast majority of NGOs that are not registered with MOSS have chosen not to apply for registration to avoid the restrictions imposed by Law 84. Attorney Negad El-Borai told us that since 2008, the GOE has largely stopped denying MOSS registration to NGOs, believing it is easier to register NGOs and control their activities. We are aware of one pending suit to challenge a registration rejection. Egyptian Initiative for Personal Rights (EIPR) Director Hossam Bahgat told us his organization applied for MOSS registration in 2004, and was rejected in 2005 for allegedly violating one of the prohibitions on NGO activities. According to Bahgat, EIPR subsequently brought a lawsuit against the GOE, which is still pending in court. Bahgat said EIPR does not want to face the restrictions imposed on a MOSS-registered organization, and is therefore not actively pursuing the lawsuit.

The Law Firm Option

8. (C) Since its establishment in 2002, EIPR has operated as a civil company registered with the tax authority. EIPR focuses on religious freedom, health, discrimination, and multilateral human rights. When EIPR's bank sent an October 2009 letter inquiring into its tax-exempt status, EIPR became worried the GOE could shut it down, and decided to seek Bar Syndicate registration as a for-profit law firm. Bahgat said he is working with lawyers to establish EIPR as a law firm to provide cover for its human rights activities.

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9. (C) Director of the United Group Negad XXXXXXXXXXXX has received USG funding for work on torture, corruption, franchising and restrictions on NGOs. As an attorney, XXXXXXXXXXXX has represented defendants in freedom of expression cases. XXXXXXXXXXXX said that to avoid the "obstacles" of MOSS registration under law 84, he does his human rights work under the auspices of his for-profit law firm, which is registered with the Bar Syndicate and as a civil company under law 17 (1983). He believed his Bar Syndicate registration provides "cover" for his human rights work.

XXXXXXXXXXXX said he spends 70 percent of his time on commercial work, and 30 percent on human rights cases and projects. XXXXXXXXXXXX said that he still faces obstacles from Interior Ministry State Security, especially outside Cairo, but he is usually able to reach an accommodation with them.

Civil Company Options

10. (C) Some activists operating MOSS-registered NGOs have found law 84 requirements obtrusive, and have subsequently opened civil companies to avoid GOE restrictions. Activist XXXXXXXXXXXX runs human rights programs from both her MOSS-registered NGO and an NGO registered with the GOE as a "for-profit company." XXXXXXXXXXXX believed that because MOSS-registered NGOs receive benefits under law 84 such as tax exemptions and discounts on utilities, it is fair for these NGOs to submit to control by the GOE. She rejected the legitimacy of tax-exempt civil companies operating free of GOE constraints. Her for-profit company pays taxes on the grants it receives, she said, and she considered this 20 percent payment as her "price for freedom." Director of XXXXXXXXXXXX told us she is registered with the Ministry of Trade as a representative office of the U.S. organization XXXXXXXXXXXX. She did not want to be subject to "difficult" MOSS restrictions as an NGO registered under law 84, and noted that her Ministry of Trade registration only obligates XXXXXXXXXXXX to function as a non-profit organization in Egypt.

Playing by the Rules: MOSS Registration

11. (C) Activist XXXXXXXXXXXX who focuses on freedom of expression and corruption told us he applied for MOSS registration in January 2005 to "work within the system" for change. As a lawyer committed to the rule of law working for human rights advances through legal changes, XXXXXXXXXXXX believed he needs to work within the law. XXXXXXXXXXXX told us the process was bureaucratic and time-consuming. Chair of the XXXXXXXXXXXX told us she registered to "work within the system," and in response to GOE promises that the requirements would not be onerous. However, XXXXXXXXXXXX believed registering was "the worst mistake we could have made," saying that her NGO spends "half its time" dealing with MOSS intrusions and red tape, and that MOSS routinely delays approving ECWR's foreign grants, once for over one year.

12. (C) The MOSS-registered Egyptian Organization for Human Rights (EOHR), one of the country's oldest and most prominent human rights NGO, received a letter from MOSS in April 2009 reminding it of the GOE's authority to dissolve EOHR for receiving unauthorized foreign funding. EOHR had received funds from a Moroccan NGO for a January 2009 conference on press freedom, and had requested MOSS approval, but never received a response. MOSS sent EOHR a letter in May 2009 saying it was not attempting to dissolve the NGO. At the time, EOHR then-President XXXXXXXXXXXX told us EOHR operated as an unregistered organization from 1985 to 2003, and would be prepared to do so again "if the GOE shut them down" (refs B,C,D).
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